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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,334	11/22/2000	David E. Edgren	ARC 2702D1	6607
27777	7590	04/27/2004	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			WEBMAN, EDWARD J	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 04/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

APPLICATION NUMBER FILING DATE FIRST NAME/ AFFILIANT ART. DCKET NO.

EXAMINER

ART UNIT

PAPER NUMBER

4/5/04

DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 12/24/03

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- ☒ Claim(s) 4-9 is/are pending in the application.  
Of the above, claim(s) 4-9 is/are withdrawn from consideration.  
☐ Claim(s) is/are allowed.  
☒ Claim(s) is/are rejected.  
☐ Claim(s) is/are objected to.  
☐ Claim(s) are subject to restriction or election requirement.

#### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
☐ The drawing(s) filed on is/are objected to by the Examiner.  
☐ The proposed drawing correction, filed on is ☐ approved ☐ disapproved.  
☐ The specification is objected to by the Examiner.  
☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.  
☐ received in Application No. (Series Code/Serial Number)  
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received:

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).


#### Attachment(s)

- ☐ Notice of Reference Cited, PTO-892  
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s).

Newly submitted claims 4-9 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Originally, applicants claimed a composition. Now applicants claim a method of making.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 4-9 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. See also MPEP 706.07(h) VII and XIII table item 10.

Any inquiry concerning this communication should be directed to Edward J. Webman at telephone number 571-272-0633.

  
EDWARD J. WEBMAN  
PRIMARY EXAMINER  
GROUP 10